

REMARKS

Claims 10-13, as amended, and new claims 14-26 appear in this application for the Examiner's review and consideration.

In response to the Examiner's restriction requirement, applicants hereby elect, with traverse, the Group II claims, composition claims 10-11, for prosecution in this application. As the composition of claim 10 is a product by process, claim 10 has been written in independent form by incorporating the features of claim 1 therein. New claims 14-21 have been added to cover additional process features that were originally recited in claims 2-9. New claims 22-26 have been added to cover the most preferred agents and compositions of the invention as well as their use. As no new matter has been introduced by these changes and additions, their entry at this time is warranted.

In view of the above, at least claims 10, 11, and 14-24 should be examined at this time as those claims are classified in Group II. It is the understanding of the applicant that a claim directed to a method of use of a compound or composition may be considered with a compound or composition claim. Accordingly, when these Group II claims are found to be patentable, claims 12, 13, and 25-26, which depend from Group II claims, should also be allowed since they will include all the patentable features of the Group II claim by virtue of their dependency on those claims.

In the office action, it is stated that the claims of Group I differ from Group II because the process as claimed in Group I can be used to make a materially different product. Reconsideration of this statement is respectfully requested, since it is the same product by process of the Group II claims that constitutes the composition. Thus, the claims of these groupings are sufficiently related such that they are not independent and distinct.

Furthermore, in order to properly assess the patentability of the product claims of Group II, a search needs to be made of all references that disclose such products, so that uses of the prior art products will of necessity be reviewed. Accordingly there is no additional burden on the Examiner to review the merits of the Group III claims in particular because the patentability of these claims will in large part depend upon the patentability of the products that are used in those methods.

In view of the foregoing, it is believed that all current claims should be examined together in this application. The Examiner acknowledged that process claims that depend from or otherwise include the recitations of a patentable product will be entered as a matter of right, but applicants submit that they should be examined during prosecution for the previously stated reasons.

Finally, applicants submit herewith a substitute form 1449 to replace that which was previously filed. This form corrects certain errors of a typographical nature that appear in the previously submitted form.

Respectfully submitted,

Date: 9-16-04



Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN
CUSTOMER NO. 28765
(212) 294-3311

LIST OF REFERENCES CITED BY APPLICANT

Form PTO-1449

(Use several sheets if necessary)

ATTY. DOCKET NO.:

88265-6684

APPLICATION NO.:

10/629,823

APPLICANT:

Hassan HAJJAJ et al.

SEP 16 2004

Sheet 1 of 1

FILING DATE:

July 30, 2003

GROUP:

1645

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	CITE NO.	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	AA						
	AB						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	AC	2002 064194	03/2001	JP (English Abstract XP002171276)			X	
	AD							
	AE							

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

AF	Ohtsuru et al., "Effects of Administration of Grifola frondosa on blood pressure and body weight in spontaneously hypertensive rats. I. Bioactive substances in Grifola frondosa," Journal of the Japanese Society for Food Science and Technology, Vol. 46, No. 12, pp. 806-814 (1999).
AG	Li Hva Ren et al., "Antiatherosclerotic Properties of Higher Fungi a clinico-experimental study," Voprosy Pitaniya, No. 1, pp. 16-19 (1989).
AH	Ryong et al., Antiatherogenic and Antiatherosclerotic Effects of Mushroom Extracts Revealed in Human Aortic Intima Cell Culture," Drug Development Research, Vol. 17, No. 2, pp. 109-118 (1989).
AI	Bobek et al., "Influence of water and ethanol extracts of the oyster mushroom (<i>Pleurotus ostreatus</i>) on serum and liver lipids of the Syrian hamsters," Nahrung, Vol. 37, No. 6, pp. 571-575 (1993).
AJ	Solberg, "A literature review of the lipid constituents of higher fungi new investigations of agaricales species," International Journal of Mycology and Lichenology, Vol. 4, No. 1-2, pp. 137-154 (1989).
AK	Eisenhut et al., "Medicinally Effective and Health-Promoting Compounds of Edible Mushrooms," Gartenbauwissenschaft, Vol. 56, No. 6, pp. 266-270 (1991).
AL	Hiyoshi et al., "Effect of ER-27856, a novel squalene synthase inhibitor, on plasma cholesterol in rhesus monkeys: comparison with 3-hydroxy-3-methylglutaryl-CoA reductase inhibitors," Journal of Lipid Research, Vol. 41, pp. 1136-1141 (2000).
AM	Komoda et al., "Ganoderic Acid and its Derivatives a Cholesterol Synthesis Inhibitors," Chem. Pharm. Bull., Vol. 37, No. 2, pp. 531-533 (1989).
AN	Bobek et al., "Oyster mushroom (<i>Pleurotus ostreatus</i>) reduces the activity of 3-hydroxy-3-methylglutaryl CoA reductase in rat liver microsomes," Experientia, Vol. 51, pp. 589-591 (1995).
AO	Bobek et al., Casopis Lekaru Ceskych, Vol. 136, No. 6, pp. 186-190 (1997)

EXAMINER

DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

EXPRESS MAIL LIST

To:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



The following items listed below are being filed herewith with the USPTO on September 16, 2004.

Express Mail No. EV 346 811 710 US			
Attorney Docket No.	Appln. Serial No./ Patent No.	Items - Documents filed on <u>September 16, 2004</u>	Patent Fees- Acct. #50- 1814
88265-6684	10/629,823	Response to Restriction Requirement; Substitute Form PTO 1449	0

NY:890637.10